

PATENT APPLN. NO. 10/544,210
SUBMISSION UNDER 37 C.F.R. § 1.114

PATENT

REMARKS

Claim 19 has been amended to recite that a Co content in the Zr compound contained in the form of particles adhered to the surface of the lithium cobaltate of the positive electrode of the nonaqueous electrolyte secondary battery of the present invention is less than a Zr content in the Zr compound.

The amendment to claim 19 is supported in the four corners of the specification of the present application and, in particular, is supported by the description on page 26, lines 12-16, and Fig. 8.

Claim 31 has been canceled.

Referring to the Final Office Action, the drawings of the application are objected to as failing to show the features of claim 31 that was added to the application in the response filed December 27, 2010, to the Office Action dated September 27, 2010. Claim 31 has been canceled. Therefore, the objection to the drawings is now moot.

The Office has maintained the rejections of the claims made in the Office Action of September 27, 2010. Specifically, claims 19, 21 and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Yamazaki "(machine translation for JP 2002-358963 as found in IDS dated 02/16/2010)". Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamazaki in view of

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Tanaka (US 5,487,960). Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamazaki in view of Hironaka et al. (US 2001/0031391).

In the response filed December 27, 2010, applicants noted that whereas Zr is contained in the positive active material of the nonaqueous electrolyte secondary battery of the present invention as a Zr compound in the form of particles adhered to the surface of lithium cobaltate, Yamazaki discloses that "ZrO₂ does not remain in the form separated with the lithium cobalt system multiple oxide" (paragraph [0032]) and that "[i]n lithium cobalt system multiple oxide concerning this invention, since Zr has replaced Co site in a lithium cobalt system multiple oxide uniformly and neither ZrO₂ nor Li₂ZrO₃ exists substantially" (paragraph [0033]). Therefore, Yamazaki does not anticipate the nonaqueous electrolyte secondary battery of the present invention.

In the Final Office Action, the Office takes the position that "the term 'Zr compound' in applicants claims can be read as 'Zr-containing compound' which includes the positive active material lithium cobaltate particles containing Zr [of Yamazaki] adhered to the surface of each other (the lithium particles containing Zr)." (Final Office Action, page 6, lines 8-6 from the bottom of the page). The above amendment to claim 19 distinguishes the Zr

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compound in the form of particles adhered to the surface of lithium cobaltate in the positive active material of the nonaqueous electrolyte secondary battery of the present invention from the lithium cobaltate particles containing Zr.


Yamazaki is insufficient to support a case of anticipation under 35 U.S.C. § 102 of claims 19, 21 and 23 and, in combination with Tanaka and/or Hironaka et al., is insufficient to support a case of prima facie obviousness of claims 24 and 25.

Removal of the rejections of the claims is in order and is respectfully requested.

The foregoing is believed to be a complete and proper response to the Office Action dated March 15, 2011.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension and any additional required fees may be charged to Deposit Account No. 111833.

Respectfully submitted,
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